

Remarks/Arguments

The present amendment is made in response to the Office Action dated October 1, 2004, and identified as Paper No. 20040923. Claims 1-7 are pending in the application.

In the Action, the Examiner objected to the specification as claiming priority to a provisional application filed by difference inventors. Applicant has amended the specification to claim priority to both U.S. Provisional Application No. 60/400,359 filed on July 31, 2002, and U.S. Provisional Application No. 60/400,357 filed on July 31, 2002.

In the Action, the Examiner rejected claim 1 under 35 U.S.C. § 103(a) as obvious over a 2001 article by Carney et al. ("*Carney*") in view of U.S. Patent No. 5,724,485 to Rainton ("*Rainton*"). Claim 2 was rejected under 35 U.S.C. § 103(a) as obvious over *Carney*, in view of *Rainton*, in further view of U.S. Patent No. 6,031,862 to Fullerton et al. ("*Fullerton*"). Claims 3 and 4 were rejected under 35 U.S.C. § 103(a) as obvious over *Carney*, *Rainton*, *Fullerton*, in further view of U.S. Patent No. 5,757,641 to Minto ("*Minto*"). Claims 5-7 were rejected under 35 U.S.C. § 103(a) as obvious over *Carney*, *Rainton*, *Fullerton*, and *Minto*, in further view of U.S. Patent No. 4,363,138 to Franklin et al. ("*Franklin*").

With regard to the rejection of claim 1 over *Carney* in view of *Rainton*, the proposed combination lacks a proper motivation or suggestion, as required for a prima facie case of obviousness under 35 U.S.C. § 103(a). The suggestion to combine *Carney* and *Rainton* identified by the Examiner was to "minimize the discriminant function." The "suggestion," however, has nothing to do with the use of a cross-correlator. According to *Rainton*, it is the adaptive controller 10 that adjusts the first and second transfers of functions of the first and second filters 11 and 12, respectively, to minimize the discriminant function and prevent errors when detecting the time delay within non-Gaussian noise. *Rainton* thus suggests using an

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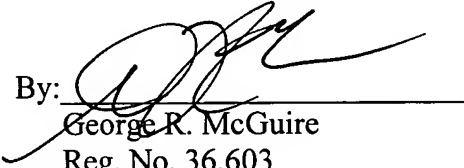
adaptive controller to minimize the discriminant function, not a *cross-correlator* as erroneously relied on by the Examiner. *Rainton* thus does not provide the motivation or suggestion required to support the Examiner's proposed combination of *Carney* and *Rainton*. As the requisite motivation or suggestion is absent, the obviousness must be withdrawn and claims 1-7 allowed.

In view of the foregoing, the Examiner's reconsideration and allowance of the claims of the present application is believed to be in order. If the Examiner believes a phone conference with Applicant's attorney would expedite prosecution of this application, please contact the undersigned at (315) 218-8515.

Respectfully submitted,

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